

GIBSON, DUNN & CRUTCHER LLP
Orin Snyder (*pro hac vice*)
osnyder@gibsondunn.com
200 Park Avenue
New York, NY 10166-0193
Telephone: 212.351.4000
Facsimile: 212.351.4035

Kristin A. Linsley (SBN 154148)
klinsley@gibsondunn.com
Rosemarie T. Ring (SBN 220769)
rring@gibsondunn.com
Martie Kutscher (SBN 302650)
mkutscherclark@gibsondunn.com
555 Mission Street, Suite 3000
San Francisco, CA 94105-0921
Telephone: 415.393.8200
Facsimile: 415.393.8306

Attorneys for Defendant Facebook, Inc.,

GIBSON, DUNN & CRUTCHER LLP
Deborah Stein (SBN 224570)
dstein@gibsondunn.com
333 South Grand Avenue
Los Angeles, CA 90071-3197
Telephone: 213.229.7000
Facsimile: 213.229.7520

Joshua S. Lipshutz (SBN 242557)
jlipshutz@gibsondunn.com
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306
Telephone: 202.955.8500
Facsimile: 202.467.0539

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE: FACEBOOK, INC. CONSUMER
PRIVACY USER PROFILE LITIGATION,

This document relates to:

ALL ACTIONS

CASE NO. 3:18-MD-02843-VC

**FACEBOOK, INC.'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
CERTAIN MATERIALS ATTACHED TO
FACEBOOK, INC.'S RESPONSE TO
ORDER RE ADI COMMUNICATIONS**

Pursuant to Civil Local Rules 7-11 and 79-5, Facebook, Inc. (“Facebook”) hereby submits this Administrative Motion to File Under Seal Certain Materials Attached to Facebook’s Response to Order re ADI Communications. For the reasons explained below, there is good cause to seal permanently this information and Facebook’s request is narrowly tailored under the circumstances.

I. Background

On January 25, 2023, the Court issued an Order regarding ADI Communications, requesting that Facebook file several ADI documents that the Special Master referenced in his January 10, 2023 Supplemental Order. Dkt. 1098. Facebook hereby submits its Administrative Motion to File Under Seal to permanently seal limited portions of one of the documents the Court ordered it to file on the docket.¹ The document, attached as Exhibit 5 to Facebook’s Response to Order re ADI Communications, is a memorandum prepared by Facebook’s outside consultants as part of the ADI. The portions Facebook seeks to seal are limited to “specific technical information,” per this Court’s December 6, 2022 Order re Motions to Seal. Dkt. 1082 at 2.

II. The Good Cause Standard Applies Because the Motion Is Unrelated to the Merits

Courts seal information in non-dispositive motions so long as there is good cause to do so because public disclosure of the information would cause harm or prejudice, and the request is narrowly tailored. *Doe v. Walmart, Inc.*, 2019 WL 636362, at *1–2 (N.D. Cal. Feb. 11, 2019). Here, the ADI document at issue is related to the discovery record, not the merits of this action, so the good cause standard applies.

III. There Is Good Cause for Facebook’s Proposed Redactions and Sealing

Facebook asks the Court to permanently seal confidential, technical information regarding access to Facebook’s proprietary data systems. If this information were publicly disclosed, hackers and other bad actors could potentially use this information to better understand Facebook’s data systems and target specific repositories of data, which may harm both Facebook and its users. Aycock Decl. ¶ 4. Courts routinely seal such information that could be abused by hackers. *See, e.g., Adtrader, Inc. v. Google LLC*, 2020 WL 6391210, at *2 (N.D. Cal. Mar. 24, 2020) (sealing information about the

¹ Facebook has a pending request to seal the same portions of this document, filed as Plaintiff’s Supplemental Exhibit 92 to the sanctions briefing. *See* Dkts 1086, 1086-37, 1036-38.

1 functionality of Google's fraud and malware systems because it could "make it easier to circumvent or
2 evade Google's detection systems."); *In re Google Inc. Gmail Litig.*, 2013 WL 5366963, at *3 (N.D.
3 Cal. Sept. 25, 2013) (sealing information about the Gmail system because "hackers and spammers
4 could use this information to circumvent Google's anti-virus and anti-spam mechanisms.").

5 **IV. The Proposed Redactions Are Narrowly Tailored**

6 Facebook's proposed redactions are narrowly tailored because the redactions are limited to the
7 narrow and limited categories of confidential and proprietary information set forth above. *See Dunbar*
8 *v. Google, Inc.*, 2013 WL 12216625, at *1 (N.D. Cal. Aug. 18, 2014) (granting sealing requests that
9 were "narrowly tailored to protect . . . proprietary information").

10 * * *

11 For these reasons, Facebook respectfully requests that the Court permanently seal the
12 confidential information contained in Exhibit 5 to Facebook's Response to Order re ADI
13 Communications.

1 Dated: January 27, 2023

GIBSON, DUNN & CRUTCHER, LLP

2 By: /s/ Deborah Stein
3 Orin Snyder (*pro hac vice*)
4 osnyder@gibsondunn.com
5 200 Park Avenue
6 New York, NY 10166-0193
7 Telephone: 212.351.4000
8 Facsimile: 212.351.4035

9 Deborah Stein (SBN 224570)
10 dstein@gibsondunn.com
11 333 South Grand Avenue
12 Los Angeles, CA 90071-3197
13 Telephone: 213.229.7000
14 Facsimile: 213.229.7520

15 Joshua S. Lipshutz (SBN 242557)
16 jlipshutz@gibsondunn.com
17 1050 Connecticut Avenue, N.W.
18 Washington, DC 20036-5306
19 Telephone: 202.955.8500
20 Facsimile: 202.467.0539

21 Kristin A. Linsley (SBN 154148)
22 klinley@gibsondunn.com
23 Martie Kutscher (SBN 302650)
24 mkutscherclark@gibsondunn.com
25 555 Mission Street, Suite 3000
26 San Francisco, CA 94105-0921
27 Telephone: 415.393.8200
28 Facsimile: 415.393.8306

Attorneys for Defendant Facebook, Inc.